



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 28, 2015

Mr. William S. Branson #252517
New Castle Correctional Facility
1000 Van Nuys Road
P.O. Box A
New Castle, IN 47362

Re: Formal Complaint 15-FC-150; Alleged Violation of the Access to Public Records Act by the Putnam County Prosecutor's Office

Dear Mr. Branson,

This advisory opinion is in response to your formal complaint alleging the Putnam County Prosecutor's Office ("Office") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Office has responded to your complaint via Mr. Justin Long, Esq., Chief Deputy Prosecuting Attorney. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on April 30, 2015.

BACKGROUND

Your complaint dated April 30, 2015 alleges the Putnam County Prosecutor's Office violated the Access to Public Records Act by failing to timely respond to your request.

You mailed a request for documents on April 15, 2015 seeking records related to a cause number but received no reply within seven (7) days.

On May 4, 2015, the Prosecutor's Office responded to your complaint. The Office states the test results you have requested are not part of the case file: the office file is exempt as investigatory and that your former attorney should have all discovery materials from the Office. As for the timeliness issue, the Office issued a response to your initial request in January 2015 and your April 2015 request was a repeat inquiry.



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ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Putnam County Prosecutor’s Office is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Office’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Your April 15, 2015 inquiry to the Prosecutor’s Office was identical to a public request sent in January 2015. Please be advised there is a timeframe for filing a formal complaint to the Public Access Counselor’s Office of thirty (30) days after denial. See Ind. Code § 5-14-5-7. A renewal or repeat request does not re-set the clock on the statute of limitations. Your grievance would have been timely in February 2015 when your initial request was filed. As it stands now, it is untimely and therefore moot. The Prosecutor’s Office has suggested you seek the files from your attorney. It is my sincere hope you are able to obtain the information you seek.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Putnam County Prosecutor’s Office has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Mr. Justin Long, Esq.